



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 10TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 102939 OF 2019 (MV-I)

BETWEEN:

SMT. SIDDAWWA W/O. NAGAPPA KARIGAR,
AGE: 58 YEARS,
OCC: COOLIE AND MILK VENDING NOW NIL.
R/O. MURGOD, TQ: SAUNDATTI,
NOW RESIDING AT MAHANTESH NAGAR,
BELAGAVI-590004.

...APPELLANT

(BY SRI. HANAMANT R. LATUR, ADVOCATE)

AND:

1. SHRI. GANGAYYA S/O. MAHADEVAYYA PUJERI
AGE: 44 YEARS, OCC: AGRICULTURE,
R/O. KORIKOPPA, TQ: BAILHONGAL,
PIN : 591112. DIST: BELAGVI.

2. SHRI. DEMAPPA S/O. BHIMAPPA TALWAR
AGE: 44 YEARS, OCC: AGRICULTURE,
R/O. KORIKOPPA, TQ: BAILHONGAL,
PIN : 591112. DIST: BELAGVI.

3. THE NEW INDIA ASSURANCE CO. LTD.,
DIVISIONAL MANAGER, DIVISIONAL OFFICE,
CLUB ROAD, BELAGVI, PIN: 590001.
DIST: BELAGVI.

...RESPONDENTS

(NOTICE TO R1 AND R2 IS DISPENSED WITH V/O. DATED
23.01.2020;

SRI. M.Y. KATAGI, ADVOCATE FOR R3)



THIS MFA IS FILED U/S.173(1) OF MOTOR VEHICLES ACT, PRAYING TO ENHANCING THE COMPENSATION BY MODIFYING THE JUDGMENT AND AWARD DATED 03.09.2018 PASSED IN MVC NO.545/2015 ON THE FILE OF THE X ADDITIONAL DISTRICT JUDGE AND MEMBER OF ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, BELAGAVI AND ETC.,.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

ORAL JUDGMENT

(PER: THE HON'BLE MRS JUSTICE GEETHA K.B.)

This is the appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 by the claimant in MVC No.545/2015 on the file of X Additional District and Member of Additional MACT, Belagavi (for short, 'Tribunal') praying for enhancement of compensation.

2. The parties would be referred to as per their rankings before the Tribunal, for the sake of convenience and clarity.

3. Claimant has filed the petition U/S.166 of M.V.Act, 1988 praying for the compensation for the injuries sustained by her in a road traffic accident.



4. Brief facts of the case are that on 07.11.2014 at 04.30 p.m. one Gangayya Mahadevayya Pujeri, the rider of the Hero Honda Motor Cycle bearing Reg.No.KA-24/R-5427 rode it on Murgod-Sogal tar road from Murgod to Karimani with high speed; and near the lands of one Prakash Kolekar dashed against the claimant who was grazing her cattle; as a result of this accident, claimant has suffered grievous injuries. Claimant contended that her age was 54 years and she was earning ₹.500/- per day by doing coolie and milk vending work and suffered permanent physical disability and hence claimed compensation at ₹.15,00,000/- under different heads.

5. On service of notice, respondent No.1 remained absent and placed ex-parte. Respondent No.2-owner appeared through his counsel and filed objection statement, wherein he denied the entire averments in the petition and contended that the rider of the motorcycle was holding valid and effective driving licence as on the date of accident and motorcycle was validly insured with respondent No.3-



insurance company. Hence prayed for dismissal of the petition.

6. Respondent No.3-insurer of the vehicle appeared through its counsel and filed objection statement and denied the petition averments in toto except admitting the validity of issuance of insurance policy as on the date of the accident. Respondent No.3 has taken contention that the rider of the motorcycle was not having valid driving licence and hence the charge sheet is filed against him alleging the offence under S.3 R/W S.181 and under Section 5 Read with 180 of Motor Vehicles Act, 1988 and thus it is not liable to indemnify the owner and hence prayed for dismissal of the petition.

7. On behalf of claimant, claimant is examined as P.W.2, examined 3 doctors as PW.1, PW.3 and PW.4, apart from marking Exs.P.1 to P.12 and closed her said before the Tribunal. On behalf of respondent No.3, its manager is



examined as RW.1 apart from marking Exs.R.1 to R.5 and closed its side.

8. After recording evidence of both sides and hearing the arguments of both sides, the Tribunal has awarded the compensation under different heads as under, totally amounting to ₹.2,72,423/- with a direction to the insurer to pay the compensation and to recover it from the owner as valid driving licence was not furnished and not owned by the owner.

1	Pain and suffering	₹.40,000/-
2	Loss of income during laid up period	₹.39,000/-
3	Loss of future income or earnings	₹.1,05,300/-
4	Loss of happiness and future amenities	₹.25,000/-
5	Medical expenses	₹.58,123/-
6	Misc. Expenses	₹.5,000/-
Total		₹.2,72,423/-

9. Unsatisfied with the aforesaid compensation, the claimant/appellant has preferred the present appeal.



10. Learned counsel for appellant Sri Hanamant R Latur would submit that the compensation awarded by the Tribunal is on the lower side under the heads - pain and suffering, loss of future income because the Tribunal has taken the income of claimant at ₹.6,500/- instead of taking at least ₹.7,500/- as per KSLSA guidelines for Lok-Adalat.

11. He would further submit that there were two fractures to the claimant i.e., on left tibia and left radius and they are major bones. The doctor who assessed disability of the claimant has stated that there was 35% permanent physical disability to left lower limb and 15% to left upper limb and thus there was disability of 50%. He would further submit that because of fracture to both limbs, the Tribunal ought to have taken the disability at 25% to the whole body and taking 15% by the Tribunal is not proper and erroneous. Hence, prayed for interference on these two heads.



12. Learned counsel for respondent No.3 Sri M.Y.Katagi would submit that the Tribunal has given proper reasons to take 15% disability to the whole body and it needs no interference. However, he fairly concedes that the income should be taken at ₹.7,500/- per month and also would submit that compensation granted under the head - laid up period is too high and it ought to have been taken only for 3 months period.

13. Learned counsel for respondent No.3 would further submit that the claimant has not produced any material to show the functional disability to the claimant. PW.4 is not the treated doctor. Hence, there was proper appreciation of evidence by the Tribunal and it requires no interference in respect of the disability taken by the Tribunal. Hence, prayed for dismissal of the appeal.

14. He also submitted that there shall be 'pay and recover' because there was no driving licence to the rider of the motorcycle.



15. Having heard the arguments of both sides and on verifying the records, the only point that would arise for consideration is, "*Whether the claimant is entitled for enhanced compensation?*"

16. Finding on the above point is in '**Affirmative**' for the following reasons:

17. The claimant had sustained accident on 07.11.2014 when she was grazing the cattle near the lands of one Prakash Kolekar at Murgod Village and at that time the rider of the motorcycle bearing Reg.No.KA-24/R-5427 dashed against her. As a result of which, she fell down and sustained injuries. Even though claimant stated that her age was 54 years, the Tribunal by considering the wound certificate and other documents, has taken the age of claimant as 60 years, which is proper. Hence, the relevant multiplier that would be applicable is 9 as per the case in ***Sarla Verma and Others vs. Delhi Transport Corporation and Another*** reported in ***(2009) 6 SCC 121***.



18. The claimant has sustained fracture of upper 1/3rd of left tibia and fracture of shaft of left radius. She contended that she was doing agriculture, coolie and milk vending business. But no document was produced to establish it. She was aged about 60 years. Considering these aspects, rightly the Tribunal has taken that she is a housewife. However, the income of claimant taken by Tribunal at ₹.6,500/-, which is on lower side when compared to the chart furnished by KSLSA for Lok-adalat. Because the accident happened in the year 2014 and thus the notional income of claimant ought to have been taken at ₹.7,500/- per month.

19. As far as disability is concerned, learned counsel for appellant vehemently would submit that there is fracture of two limbs and hence 25% to the whole body ought to have been taken. However, the Tribunal has given its finding in this regard at para No.16, wherein the Tribunal has considered the various aspects. Admittedly, PW.4 was not a treated doctor and there is no material furnished to



show the economic or functional disability to the claimant. Considering these aspects, taking disability at 15% to the whole body by the Tribunal is proper.

20. If disability is taken at 15% and income of the claimant is taken at ₹.7,500/- per month, then 15% of it would be ₹.1,125/-. Then the loss of future income or earnings due to disability would be $(1125 \times 12 \times 9)$ ₹.1,21,500/- instead of ₹.1,05,300/- taken by the Tribunal.

21. As far as pain and suffering is concerned, the claimant has suffered two major fractures and considering these aspects, the compensation under this head ought to be ₹.50,000/- instead of ₹.40,000/-. Hence, claimant is entitled for ₹.50,000/- under the head-pain and suffering.

22. As far as loss of income during laid up period is concerned, the Tribunal has taken 6 months period as the laid up period which is too high compared to the injuries sustained by the claimant. Hence, I am of the opinion that taking 4 months income under this head would be sufficient



and thus claimant is entitled for ₹.30,000/- under this head instead of ₹.39,000/- awarded by the Tribunal.

23. As far as loss of happiness and future amenities is concerned, it ought to be ₹.30,000/-, but it was granted only ₹.25,000/- by the Tribunal which is on lower side because there were two fractures to the claimant.

24. As far as medical expense is concerned, it needs no interference because considering the actual medical bills produced before court this medical expenses is taken.

25. The claimant was inpatient in the hospital for 13 days and thus she requires attendant charges for that period and transportation conveyance charges also. Thus, miscellaneous expenses of ₹.5,000/- awarded by the Tribunal is on lower side and it is enhanced to ₹.10,000/-.

Sl.No.	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
1	Pain and suffering	₹.40,000/-	₹.50,000/-
2	Loss of income during laid up	₹.39,000/-	₹.30,000/-



	period		
3	Loss of future income or earnings	₹.1,05,300/-	₹.1,21,500/-
4	Loss of happiness and future amenities	₹.25,000/-	₹.30,000/-
5	Medical expenses	₹.58,123/-	₹.58,123/-
6	Misc. Expenses	₹.5,000/-	₹.10,000/-
Total		₹.2,72,423/-	₹.2,99,623/-

26. Thus, the claimant is entitled for total compensation of ₹.2,99,623/-.

27. Hence, I pass the following:

ORDER

- a) Appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 is partly allowed.
- b) The judgment and award passed in MVC No.545/2015 dated 03.09.2018 on the file of X Additional District and Member of Additional MACT, Belagavi is modified holding that the claimant is entitled for total compensation of ₹.2,99,623/- as against ₹.2,72,423/- with interest at 6% per annum awarded by the Tribunal.



- c) The enhanced compensation shall carry interest at 6% per annum from the date of petition till realisation.
- d) The respondent-insurer shall deposit the enhanced compensation amount with accrued interest before the Tribunal within a period of 8 weeks from the date of receipt of certified copy of this judgment and it can recover the said amount from the owner.
- e) The disbursement and deposit shall be made as per the order of the Tribunal.
- f) Registry to transmit the TCR to the Tribunal forthwith.
- g) Draw modified decree accordingly.

Sd/-
(GEETHA K.B.)
JUDGE

VMB/sh
CT-CMU
LIST NO.: 1 SL NO.: 40